

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM No. M-26482 of 2015 (O&M)
Date of decision:- August 26, 2015

Satpal and others

.....Petitioners..

Vs.

State of Haryana

....Respondent..

CORAM:- HON'BLE MR. JUSTICE JASPAL SINGH

Present:- Mr. G.S. Kaura, Advocate,
for the petitioners.

JASPAL SINGH, J.

CRM No. 27800 of 2015

Prayer in this application is for placing on record documents (Annexures P-3 and P-4).

Documents (Annexures P-3 and P-4) are taken on record subject to all just exceptions.

CRM stands disposed of.

Main case

Heard.

Notice of motion.

At the asking of the Court, Ms. Kirti Singh, DAG, Haryana accepts notice on behalf of respondent-State. Copy of petition be supplied to learned State counsel during the course of the day.

Mr. J.S. Thind, Advocate has put in appearance on behalf of complainant.

Instant petition has been preferred under Section 438 of the Code of Criminal Procedure (for short, 'Code') by Satpal and others, seeking pre-arrest bail, feeling apprehension of their arrest, in case FIR No. 139, dated 07.06.2015, under Sections 148, 149, 323 and 307 IPC, Police Station Ellenabad, District Sirsa.

A glance at the FIR reveals that allegation against petitioners Satpal, Binder Singh @ Balwinder Singh and Mukhtiar Singh are that they gave slaps to Mohinder Singh-complainant whereas an iron rod blow inflicted on the left shoulder of Mohinder Singh has been attributed to Jeetu Singh. Meaning thereby, none of petitioners has caused injury to Sukhdev Singh, who is alleged to have sustained injuries, falling within the ambit of Section 307 IPC.

Contention of learned counsel for petitioners is that initially FIR was registered under Sections 148, 149, 323, 324 IPC, which were bailable offences. However, subsequent thereto, after manipulations, offence under Sections 326 and 307 IPC have been added by the police due to some political pressure, though, same are not made out. It has further been contended by learned counsel for petitioners that petitioners have been falsely implicated in the instant case just being relations of their co-accused. Moreover, it is a version and cross-version case, as 5 persons of accused party sustained injuries whereas some of the persons of complainant party have also suffered injuries during the alleged occurrence. It is yet to be

established as to which of the party was an aggressive one. Nothing is to be recovered from petitioners, as only slaps have been attributed to complainant. They also undertakes to abide by all the terms and conditions imposed by this Court, in case, they are granted concession of bail.

On the other hand, learned State counsel as well as learned counsel appearing on behalf of complainant have argued with vehemence that petitioners along with co-accused formed unlawful assembly and in furtherance of such assembly, caused injuries to as many as 8 persons including Sukhdev Singh, who has sustained injuries, falling within the ambit of Section 307 IPC. Petitioners participated in the occurrence and gave slaps as well as iron rod blow to Mohinder Singh-complainant. Thus, they do not deserve the concession of pre-arrest bail.

This Court has given an anxious thought to the rival submissions made by learned counsel for the parties and has gone through the record.

As is evident from the contents of FIR that Satpal, Binder Singh @ Balwinder Singh and Mukhtiar Singh have allegedly given slaps to Mohinder Singh-complainant but as per MLR, there is no such injury. So, in such circumstances nothing is to be recovered from them. Moreover, both parties have sustained injuries and it can be decided during trial as to which of the party was an aggressive one. Thus, there is no need to send them behind the bars just by way of harassment or causing humiliation and no opinion can be

expressed at this stage that whether they actually participated in the occurrence or not. Thus, they deserve concession of bail. Accordingly, Satpal, Binder Singh @ Balwinder Singh and Mukhtiar Singh are ordered to be released on pre-arrest bail, in the event of their arrest, at the satisfaction of arresting officer/investigating officer but subject to the conditions envisaged under Section 438 (2) of the Code.

As far as petitioner No.2-Jeetu Singh is concerned, there is specific allegation that he inflicted an iron rod blow on the left shoulder of Mohinder Singh-complainant, which prima facie shows his participation in the occurrence. Iron rod is still to be recovered from him, which is only possible through his custodial interrogation. In such circumstances, he is not entitled for pre-arrest bail. Thus, instant petition qua Jeetu Singh-petitioner No.2, stands dismissed.

August 26, 2015
sonika

(JASPAL SINGH)
JUDGE